IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

Crl.MC.No. 424 of 2007()

LP.10/2001 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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PETITIONER/ACCUSED:

MOHAMED SHAFI, S/O.MEETHIYAN,
PANELI HOUSE, CHELAKULAM, KIZHAKAMBALAM VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.ANIL K.MOHAMMED
SRI.SIRAJ KAROLY

RESPONDENTS: COMPLAINANT & STATE

STATE REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.424 of 2007

Dated this the 20th day of February 2007

O R D E R

The petitioner faces indictment in a prosecution interalia under Sections 324 and 427. The petitioner was the second accused. The co-accused (A1) had faced the trial. He was found not guilty and acquitted. The petitioner had entered appearance and was enlarged on bail. But as the matter, according to him, was settled, he went abroad. But settlement was not reported to the court and the court split up the case against the petitioner and transferred the case to the list of long pending cases. The same is pending now before the learned Magistrate as L.P.No.10/2001. The petitioner who is employed abroad is now available in India and he wants to surrender before the learned Magistrate. The petitioner apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. In these circumstances, he prays that directions may be issued under Section 482 Cr.P.C to the learned Magistrate to release the petitioner on bail when he surrenders before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006